

ANALYSIS OF AMENDED BILL

Author: Runner Analyst: Deborah Barrett Bill Number: AB 2715
 Related Bills: See Legislative History Telephone: 845-4301 Amended Date: August 10, 2006
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Electronic Recording of Digital Lien Documents

SUMMARY

This bill would provide authority for filing and recording state tax liens by electronic or magnetic media that is substantially the same as the authority for filing a federal tax lien.

SUMMARY OF AMENDMENTS

The August 10, 2006, amendments removed provisions related to birth records and added provisions that authorize the transmission, recording, and indexing of notices of state tax liens by electronic or magnetic means. The August 10, 2006, amendments also added provisions related to conflict of interest issues for county tax assessors and sheriffs that do not impact this department and are not discussed in this analysis. This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to allow the recording of state tax liens in the most efficient method possible to prevent the unnecessary expense of state tax dollars.

EFFECTIVE/OPERATIVE DATE

As an urgency statute this bill would be effective and operative immediately upon enactment.

POSITION

Pending.

STATE LAW

Under current state law, whenever a person fails to pay any liability for taxes at the time the debt becomes due and payable, the unpaid amount is a perfected and enforceable state tax lien. A state tax lien attaches to all property and rights to property, including all after acquired property belonging to the person and located in California. Under the concept of "first in time, first in right," the lien is not valid against real property interests, such as a security interest or a lien holder

Board Position:

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Department Director

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Date

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interest properly filed and noticed prior to the recording of a Notice of State Tax Lien in the office of the county recorder of the county in which real property is located.

Current state law contains the Uniform Federal Lien Registration Act within the Civil Code, which establishes procedures for the filing of federal state tax liens in county recorder offices located in California. This act prescribes that electronic lien filing is permitted for the transmission, filing, recording, and indexing of notices of federal tax liens and related documents by electronic or magnetic means using computerized data processing, telecommunications, and other similar information technologies available to the filing offices.

Current state law authorizes the Franchise Tax Board to submit digitized electronic records to a county recorder's office for filing a Notice of State Tax Lien, Extension of State Tax Lien, and Release of State Tax Lien documents. Current state law defines a *digitized* electronic record as a scanned image of an original paper document, and defines a *digital* electronic record as a record containing information that is created, generated, sent, communicated, received, or stored by electronic means but not created in original paper form.

Current state law authorizes a county recorder to establish an electronic recording delivery system at each county recorder's office for the electronic recording of documents by private entities. Current state law requires the Attorney General's office to oversee and establish regulations to ensure sufficient security exists to prevent fraudulent filing of documents through the electronic process.

THIS BILL

This bill would authorize the transmission, filing, recording, and indexing of notices of state tax liens recorded or filed by electronic or magnetic means, using computerized data processing, telecommunications, or other similar information technologies available to the filing offices. This bill also permits a facsimile signature to be accepted on any document relating to a state tax lien filed or recorded.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs or operations because it would permit the department to take advantage of developing technology to file state tax liens more efficiently.

TECHNICAL CONSIDERATION

On page 3, line 26, "the" should be replaced with "or"

LEGISLATIVE HISTORY

AB 578 (Leno Stats 2004, CH. 621) expanded the authorization for electronic filing of documents at a county recorder's office to include instruments of reconveyance, substitution of trustee, or assignment of deed of trust.

AB 1906 (Brewer, Stats 1997, CH. 463) authorized the transmission, filing, recording, and indexing of notices of Federal tax liens by electronic or magnetic means.

AB 3296 (Brewer, Stats 1996, CH 842) initiated a pilot with San Bernardino and Orange Counties to accept digitized images of recordable instruments.

FISCAL IMPACT

Implementing this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Implementing this bill would not significantly impact the state's income tax revenues.

LEGISLATIVE STAFF CONTACT

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